



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2020–N115; FXES11140100000–201–FF01E00000]

Receipt of Enhancement of Survival Permit Applications Developed in Accordance With the Template Safe Harbor Agreement for the Columbia Basin Pygmy Rabbit; Douglas County, Washington.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received two applications for enhancement of survival permits (permits) pursuant to the Endangered Species Act of 1973, as amended (ESA). The two applications, one from Mr. Ed Preston and one from Mr. Ward Glessner, were developed in accordance with the Template Safe Harbor Agreement (Template SHA) for the Columbia Basin pygmy rabbit. We are requesting comments from the public regarding the proposed issuance of a permit to each of the two applicants.

DATES: Submit written comments no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: To request further information or submit written comments, please use one of the following methods:

- *Internet:* You may view or download copies of the Template SHA and

environmental assessment and obtain additional information on the Internet at <http://www.fws.gov/wafwo/>.

- *Email:* wfwocomments@fws.gov. Include “Template SHA for the Columbia Basin pygmy rabbit” in the subject line of the message.
- *U.S. Mail:* Public Comments Processing, Attn: FWS–R1–ES–2020–N115; U.S. Fish and Wildlife Service; c/o Jeff Krupka; Central Washington Fish and Wildlife Field Office; 215 Melody Lane, Suite 119, Wenatchee, WA 98801.
- *Facsimile:* 509–665–3509.

FOR FURTHER INFORMATION CONTACT: Kimberly Veverka (see **ADDRESSES**); telephone: 509–665–3508, ext. 2012; facsimile: 509–665–3509. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received two applications for enhancement of survival permits (permits) pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The two applications, one from Mr. Ed Preston and one from Mr. Ward Glessner, were developed in accordance with the Template Safe Harbor Agreement (Template SHA) for the Columbia Basin pygmy rabbit (*Brachylagus idahoensis*). Mr. Preston’s application includes a request to enroll 421.74 acres of land in Douglas County, Washington, under the Template SHA. Mr. Glessner’s application includes a request to enroll 2,023.84 acres of land in Douglas County, Washington, under the Template SHA. If approved, the permits would authorize otherwise

prohibited take of the endangered Columbia Basin pygmy rabbit that is above the baseline conditions of the properties enrolled under the Template SHA, and that may result from the permittees' otherwise lawful land-use activities. We provide this notice to open a public comment period and invite comments from all interested parties regarding the proposed issuance of a permit to each applicant.

Background

Section 9 of the ESA prohibits the take of fish and wildlife species listed as endangered under section 4 of the ESA. Under the ESA, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). The term "harm," as defined in our regulations, includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term "harass" is defined in our regulations as [to carry out] an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). Under specified circumstances, however, we may issue permits that authorize take of federally listed species, provided the take is incidental to, but not the purpose of, an otherwise lawful activity. Regulations governing permits for endangered species are at 50 CFR 17.22.

Under a safe harbor agreement (SHA), participating landowners voluntarily undertake management activities on their properties to enhance, restore, or maintain

habitat benefiting species listed under the ESA. SHAs, and the subsequent enhancement of survival permits that are issued pursuant to section 10(a)(1)(A) of the ESA, encourage private and other non-Federal property owners to implement conservation efforts for listed species. The SHAs provide assurances to property owners that they will not be subjected to increased property use restrictions as a result of their efforts to attract listed species to their property, or to increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through SHAs are found in 50 CFR 17.22(c). As provided for in the Service's final Safe Harbor Policy (64 FR 32717; June 17, 1999), SHAs provide assurances that allow the property owner to alter or modify their enrolled property, even if such alteration or modification results in the incidental take of a listed species, to such an extent that the property is returned back to the originally agreed-upon baseline conditions.

On March 5, 2003, the Service listed the Columbia Basin pygmy rabbit as an endangered species (68 FR 10388). On September 7, 2006, the Service announced the availability for public review and comment of a draft Template SHA for the Columbia Basin pygmy rabbit, which was jointly developed by the Service and the Washington Department of Fish and Wildlife (WDFW), and a draft environmental assessment (EA), which was developed by the Service pursuant to Federal responsibilities under the National Environmental Policy Act (71 FR 52816). The Service's September 7, 2006, *Federal Register* notice also announced the receipt of three initial permit applications that were developed in accordance with the Template SHA. The final Template SHA, which contained only minor modifications from the draft released for public review, was

signed by the Service and WDFW on October 24, 2006. On April 25, 2007, the Service announced the availability for public review and comment of another 13 permit applications that were developed in accordance with the Template SHA (72 FR 20557). On October 8, 2008, the Service announced the availability for public review and comment of one permit application that was developed in accordance with the Template SHA (73 FR 58975). On June 18, 2015, the Service announced the availability for public review and comment of nine permit applications that were developed in accordance with the Template SHA (80 FR 34928). To date, the Service has issued 26 permits under the Template SHA, which cover 152,849 acres that are within the historic distribution of the Columbia Basin pygmy rabbit.

The objectives of the Template SHA include: (1) Encourage land owners and managers to undertake voluntary conservation measures to benefit the Columbia Basin pygmy rabbit; (2) maintain or increase the amount of habitat available to the Columbia Basin pygmy rabbit within their historic distribution; (3) accomplish the foregoing without negatively affecting existing and proposed future land-use activities by reducing participants' future management liability for incidental take of Columbia Basin pygmy rabbits on their enrolled property; and (4) increase public support for Columbia Basin pygmy rabbit conservation efforts by implementing proactive, cooperative, and flexible management in accordance with the measures prescribed by the ESA.

Proposed Action

We received two applications, one from Mr. Edward Preston and one from Mr. Ward Glessner, requesting permits under the ESA and in accordance with the Template

SHA and 50 CFR 13.25(b). If we approve the applications, the implementation of the Template SHA would occur on the following properties:

- Mr. Edward Preston: The properties included within the proposed enrollment total 421.74 acres in Douglas County, Washington, and are located within the geographic area covered by the Template SHA. All of the land areas proposed for enrollment by Mr. Preston represent intervening properties (i.e., property outside of Columbia Basin pygmy rabbit recovery emphasis areas) as defined in the Template SHA. WDFW biologists conducted evidence searches for the Columbia Basin pygmy rabbit on Mr. Preston's properties identified for enrollment under the Template SHA. No Columbia Basin pygmy rabbits or evidence of active pygmy rabbit burrows were detected during these surveys. Therefore, in accordance with the provisions of the Template SHA, the baseline for covered properties is zero (0) active pygmy rabbit burrows.

- Mr. Ward Glessner: The properties included within the proposed enrollment total 2,023.84 acres in Douglas County, Washington, and are located within the geographic area covered by the Template SHA. All of the land areas proposed for enrollment by Mr. Glessner represent intervening properties (i.e., property outside of Columbia Basin pygmy rabbit recovery emphasis areas) as defined in the Template SHA. WDFW biologists conducted evidence searches for the Columbia Basin pygmy rabbit on Mr. Glessner's properties identified for enrollment under the Template SHA. No Columbia Basin pygmy rabbits or evidence of active pygmy rabbit burrows were detected during these surveys. Therefore, in accordance with the provisions of the

Template SHA, the baseline for covered properties is zero (0) active pygmy rabbit burrows.

The Service has previously determined that implementation of the Template SHA will result in conservation benefits to the Columbia Basin pygmy rabbit and will not result in significant effects to the human environment. The Service will evaluate the permit applications, related documents, and any comments submitted to determine whether the applications are consistent with the measures prescribed by the Template SHA and comply with relevant statutory and regulatory requirements. If it is determined that the requirements are met, a permit authorizing incidental take of the Columbia Basin pygmy rabbit will be issued to each of the applicants. The final determination for each permit will not be completed until after the end of the 30-day comment period, and we will fully consider all comments received.

Public Comments

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on our proposed Federal action. The original Template SHA and EA are available for reference.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address

or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA (42 U.S.C. 4321 *et seq.*), and their implementing regulations (50 CFR 17.22, and 40 CFR 1506.6, respectively).

Robyn Thorson,
Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc. 2020-22966 Filed: 10/15/2020 8:45 am; Publication Date: 10/16/2020]